

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Werling et al.)
Serial No.: 10/035,821) Art Unit: 1618
Filed: October 19, 2001) Examiner: Simon J. Oh
Title: METHOD FOR PREPARING SUBMICRON) Confirmation No. 2470
SUSPENSIONS WITH POLYMORPH)
CONTROL)
Docket No.: CPIFT-5657A-1 C1)

TERMINAL DISCLAIMER PURSUANT TO 37 CFR 1.321

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The owner, Baxter International Inc., of one hundred percent (100%) interest in the instant application, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term of Patent numbers 6,607,784; 6,869,617; and 6,884,436 (collectively, "Prior Patents"), or which would extend beyond the expiration date of the full statutory term of any patent granted on Application number 09/874,499, filed June 5, 2001; and Application No. 09/953,979, filed September 17, 2001 (collectively, "Prior Applications"), as each such term is defined in 35 U.S.C. 154 to 156 and 173, and as each such term of a Prior Patent is presently shortened by any terminal disclaimer or as each such term of any patent granted on a Prior Application may be shortened by any terminal disclaimer filed prior to the grant of any patent on a Prior Application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any Prior Patent and any patent granted on the Prior Applications are commonly owned.

05/06/2005 RHARMON 00000001 021440 10035821

01 FC:1814 130.00 DA

Application No. 10/035,821
Response to Final Office Action
Page 2

beyond the termination of the above-referenced patent and applications. As pointed out in the Final Office Action, however, the Terminal Disclaimer was defective in that it did not contain a clause stating the percentage of the petitioner's ownership right, title and interest of the instant application.

Applicants herewith submit a corrected Terminal Disclaimer now containing the clause of ownership of the instant application. The Terminal Disclaimer fee under 37 CFR 1.20(d) had been submitted previously with the January 20, 2005 response, however, the Commissioner is authorized to charge any additional fees, or credit any overpayment, to deposit account 02-1440. Two copies of this letter are enclosed for accounting purposes.

The submission of the Terminal Disclaimer is believed to moot the Examiner's rejection of the claims. Applicants therefore respectfully request reconsideration and allowance of the pending claims in the present application.

Respectfully submitted,



Michael C. Mayo
Registration No. 38,545
Attorney for Applicant

April 28, 2005

BAXTER INTERNATIONAL INC.
One Baxter Parkway, DF3-2E
Deerfield, IL 60015
847-948-2136
slg/